

Department of Planning and Zoning

149 Church Street
Burlington, VT 05401
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David White, AICP, Director
Meagan Tuttle, AICP, Comprehensive Planner
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Scott Gustin, AICP, CFM, Principal Planner
Mary O'Neil, AICP, Principal Planner
Ryan Morrison, CFM, Associate Planner
Anita Wade, Zoning Clerk
Elsie Tillotson, Department Secretary



TO: Development Review Board
FROM: Scott Gustin *SG*
DATE: April 19, 2016
RE: 124 Sunset Cliff Rd; 16-0870AP

The notice of zoning violation relative to an unpermitted apartment at this property has been remedied (see attached). The pending appeal is now moot and should be dismissed by the Development Review Board.



CODE ENFORCEMENT OFFICE

645A Pine St, PO Box 849
Burlington, VT 05402-0849
VOICE (802) 863-0442
FAX: (802) 652-4221

124 SUNSET CLIFF ROAD ZV # 298627 REMEDIED

Violation Remedied April 5, 2016

April 12, 2016

JOSEPH AND ALTHEA KROGER
124 SUNSET CLIFF ROAD
BURLINGTON, VT 05408

RE: Zoning Violation #2986274 Located at 124 SUNSET CLIFF ROAD

Dear MR. KROGER:

On February 5, 2016 our office mailed you a Notice of Zoning Violation letter citing a change of use at property located at 124 Sunset Cliff Road: "reconfigure single family structure to include a second unit without zoning approval".

On March 21, 2016 you received zoning approval for an accessory unit to cure the zoning violation (ZP 16-0946CA). The appeal date of April 5, 2016 has surpassed; permit was not appealed. ZV#298627 has been remedied and removed from the City's land records.

Thank you for your timely attention in remedying the violation.

Should you have questions, don't hesitate to call me at 863-0442.

Sincerely,

Jeanne Francis
Assistant Zoning Administrative Officer
Code Compliance and Enforcement

CC: Planning/Zoning Files
Land Records

gravel &
shea

ATTORNEYS AT LAW

76 St. Paul Street
Post Office Box 369
Burlington, Vermont 05402-0369

Telephone 802.658.0220
Facsimile 802.658.1456
www.gravelshea.com

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MAR 28 2016

DEPARTMENT OF
PLANNING & ZONING

Matthew S. Stern
Associate
mstern@gravelshea.com

March 25, 2016

Austin Hart, Chair
Burlington Development Review Board
149 Church Street, City Hall
Burlington, VT 05401

Re: 16-0870AP; 124 Sunset Cliff Road; Joseph Kroger – Request for Continuance

Dear Mr. Hart:

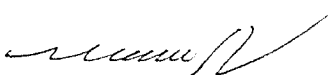
On February 19, 2016, Joseph Kroger filed a Notice of Appeal of Notice of Zoning Violation #298627 (“NOV”). A public hearing for the appeal has been scheduled for Tuesday, April 5, 2016. Concurrently with his appeal, Mr. Kroger also filed a Zoning Permit Application seeking after-the-fact approval for the accessory apartment that is the subject of the NOV. The Burlington Zoning Administrative Officer approved the permit on March 21, 2016. However, the permit is not final until the appeal period runs on April 5, 2016.

Because the appeal period for the Zoning Permit expires on the same day as the hearing for the NOV appeal, Mr. Kroger respectfully requests that the Development Review Board continue the hearing to the next available date. Provided the Zoning Permit is not appealed and becomes final, the NOV issue will be resolved and Mr. Kroger will withdraw his appeal.

Please contact me if you have any questions about this matter. Thank you.

Very truly yours,

GRAVEL & SHEA PC


Matthew S. Stern

MSS:nlt

cc: Mr. Scott Gustin (e-mail)



Department of Planning and Zoning

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Burlington, VT 05401-8415
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www.burlingtonvt.gov/pz

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DEPARTMENT OF
PLANNING & ZONING

Appeal of an Administrative Decision Request

Use this form to appeal any Administrative Decision or Notice of Violation - See Sec. 12.2.2 of the Zoning Ordinance.

SUBJECT LOCATION ADDRESS: 124 Sunset Cliff Road, Burlington, Vermont

Subject Property Owner: Joseph Kroger


Appellant: Joseph Kroger

Agent/Representative: Matthew S. Stern, Esq., Gravel & Shea PC

Mailing Address: 76 St. Paul Street, 7th Floor, P.O. Box 369

City, St, Zip: Burlington, VT 05402-0369

Day Phone: 802-658-0220 Email: mstern@gravelshea.com

Appellant Signature:  Date: 2/19/2016

In order for your request to be considered complete, **ALL** of the following information **must** be provided, as applicable:

- ☐ The Appeal fee of \$250;
- ☐ Description of the decision under appeal;
- ☐ Description of the property subject to the appeal;
- ☐ Reference to the regulatory provisions applicable to the appeal;
- ☐ Relief requested by the appellant;
- ☐ Alleged grounds why such requested relief is believed proper under the circumstances.

Office Use Only:

Check No. 114310 Amount Paid \$250. Zoning Permit # 16-0870AP

BURLINGTON DEPARTMENT OF PLANNING AND ZONING
DEVELOPMENT REVIEW BOARD

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FEB 19 2016

In re: Joseph Kroger
124 Sunset Cliff Road
Burlington, VT 05408

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NOV #298627

DEPARTMENT OF
PLANNING & ZONING

NOTICE OF APPEAL

Joseph Kroger, by his attorneys, Gravel & Shea PC, hereby appeals the Burlington Zoning Administrative Officer's Notice of Zoning Violation #298627, dated February 5, 2016 ("NOV").¹ In support of his appeal, Appellant states as follows:

1. Applicant/Appellant is Joseph Kroger. Mr. Kroger's address is 124 Sunset Cliff Road, Burlington, Vermont, 05408. Mr. Kroger may be contacted through counsel.
2. The property at issue is located at 124 Sunset Cliff Road, Burlington, Vermont. Parcel ID 030-3-012-000.
3. The NOV alleges that Appellant's property includes a second unit without zoning approval. A copy of the NOV is attached hereto as Exhibit 1.
4. The regulatory provisions at issue in this appeal include: Burlington Comprehensive Development Ordinance ("CDO") Articles 2, 3, 5, (including, but not limited to, Article 5, Part 3: Non-Conformities), 12; 24 V.S.A. § 4451; and 24 V.S.A. § 4454.
5. Appellant requests that the Development Review Board vacate the Administrative Officer's NOV and find that the second unit at issue is not subject to enforcement action

¹ Concurrently with this Notice of Appeal, Appellant is preparing a zoning application for after-the-fact change of use to permit the pre-existing second unit at issue in this NOV. Appellant is filing this Notice of Appeal to preserve all appeal rights provided by statute, 24 V.S.A. § 4465(a).

pursuant to 24 V.S.A. § 4454 and Sec. 5.3.2 of the CDO because it has existed for more than 15 years.

6. The Administrative Officer's findings in the NOV are in error on this issue.

7. Finding 3 in the NOV states that "[n]otification of a potential zoning violation was mailed to Owners on July 2, 2015; no response to letter."

8. Appellant responded to the July 2, 2015 notice of potential zoning violation by letter dated July 7, 2015. In Appellant's response, he provided facts and information sufficient to demonstrate that the alleged violation has existed for more than 15 years. A copy of the July 2, 2015 notice and Appellant's July 7, 2015 response are attached hereto as Exhibit 2.

9. Specifically, Appellant stated that the property included a second unit apartment when he purchased it in 1994. The Uniform Residential Appraisal Report he obtained in 1994 identifies that the property included an apartment in use. *See* Exhibit 2. Appellant intends to provide a copy of the 1994 Uniform Residential Appraisal Report during the hearing held on this matter.

10. Appellant has continually rented the second unit as an apartment since 1994. *See* Exhibit 2.

11. Appellant has continually reported income from the rental of the second unit on his taxes from 1994 through 2014. *See* Exhibit 2.

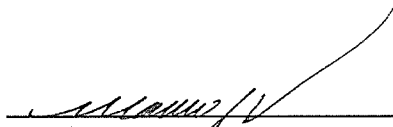
12. Based on the above and the information provided to the Department of Planning and Zoning on July 7, 2015 (Exhibit 2), Appellant has met his burden of proving that the second unit has been in continual use for more than 15 years. Therefore, the second unit is not subject to enforcement action pursuant to 24 V.S.A. § 4454 and Sec. 5.3.2 of the CDO.

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WHEREFORE, Appellant requests that the Development Review Board vacate the Administrative Officer's NOV.

Dated: Burlington, Vermont
February 19, 2016


Matthew S. Stern, Esq.
Gravel & Shea PC
76 St. Paul Street, 7th Floor, P. O. Box 369
Burlington, VT 05402-0369
(802) 658-0220
mstern@gravelshea.com
For Appellant

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FEB 19 2016

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